

MAINE REVENUE SERVICES
SALES, FUEL AND SPECIAL TAX DIVISION
RULE NO. 303

SALES TO INDUSTRIAL USERS

SUMMARY: ~~Interprets~~ Explains the Sales and Use Tax Law as it pertains to the exemption provisions of machinery and equipment used in production, and consumed or destroyed items.

~~.01~~ SECTION 1. Definitions

A 1. Production. "Production" ~~referred to as used~~ in Sec. 1752(9-B) commences with the movement of raw materials to the first production machine after their receipt and storage at the production site (after receipt if the raw materials are not stored) and ends with the completion of the finished product, ~~including any packaging operation.~~ Production includes any "in-line" packaging operation. The acquisition of raw materials, the transportation of raw materials or goods in process between production sites, and administrative and distributive operations do not constitute production.

B 2. Foundations. "Foundations" ~~referred to as used~~ in §1752(7-B), includes permanent supports, such as those composed of concrete. Metal supports ~~which that~~ can be dismantled and moved ~~will be~~ are considered part of the machinery or equipment ~~which~~ they support and ~~be~~ are therefore exempt if the machinery or equipment itself is exempt.

C 3. Directly. "Directly" ~~referred to as used~~ in §1752(2-A) excludes support operations, such as machine shops in which production equipment is maintained. Testing for quality control is directly in production only insofar as those testing devices are physically incorporated in machinery or equipment ~~which that~~ is otherwise exempt.

~~.02~~ SECTION 2. Consumed or Destroyed Items

A 1. Exempt items. Tangible personal property ~~which that~~ has a normal physical life expectancy of less than one year is exempt ~~under the following circumstances~~ if it falls within one of the following categories:

1 A. Items that are integrated with and essential to the operation of exempt production machinery and equipment ~~that is used directly and primarily in production.~~

NOTE: Items under this category will normally include but not be limited to such items as abrasives, coolants, lubricants, filtering materials, etc.

2 B. Items ~~which that~~ come in contact with, or are added to, the raw product during production, but ~~which that~~ are later extracted or dissipated and do not become a component part of the tangible personal property produced.

NOTE: Items under this category will normally include but not be limited to such items as catalysts, chemicals, solvents, liquids, etc.

3 ~~C.~~ Items ~~which~~ that come ~~in~~ into contact with the products produced ~~which~~ and that are an integral and essential part of production.

NOTE: Items under this category will normally include but not be limited to abrasives, polishing agents, stencil materials, tagging materials, etc.

B 2. Taxable items. ~~Tangible~~ Tangible personal property that is consumed and destroyed is taxable ~~under the following circumstances~~ if it falls within one of the following categories:

1 ~~A.~~ Items consumed or destroyed ~~in areas before~~ prior to the commencement of the production process or begins and after production has ended as provided in §1752(9-B) of the law and ~~§.01(A)~~ Section 1(1) of this rule.

2 ~~B.~~ Items consumed or destroyed ~~in areas which are~~ in the course of contact with machinery and equipment that is not "directly" in production as provided in §1752(2-A) of the law and ~~§.01(C)~~ Section 1(3) of this rule.

NOTE: Items under this category will normally include but not be limited to the following:

- ~~a.~~ (1) Cleaning supplies, including floor sweeping compounds, soaps, etc., regardless of where used.;
- ~~b.~~ (2) Steam used to heat buildings, including the production area.;
- ~~c.~~ (3) Personal apparel used by employees, including aprons, gloves, hair nets, ear plugs, face shields or masks, etc.;
- ~~d.~~ (4) Light bulbs, flash lights and batteries, used for lighting.;
- ~~e.~~ (5) Chemicals or supplies of any kind used in quality control and research laboratories.;
- ~~f.~~ (6) Supplies used in maintenance of production machinery and equipment, including abrasives, files, grinding oil, etc.

~~C. Tangible personal property is "consumed or destroyed" for the purposes of 36 M.R.S.A. §1752(11) when it has a normal life expectancy of less than one year, based upon the experience of the particular taxpayer, in the use to which it is applied. "Life expectancy" means physical life expectancy without regard to obsolescence.~~

.03 SECTION 3. Certification requirement.

Where the sale of tangible personal property is claimed to be non-taxable ~~under the provisions noted herein~~, the purchaser ~~shall furnish~~ must provide the seller with a certificate in the form prescribed by the State Tax Assessor; and on the furnishing of such certificate the purchaser shall be held solely accountable for the payment to the State of any taxes, together with penalties and interest thereon, that may later be determined to be

due on such purchases in accordance with the applicable provision of the law or this ~~Rule~~
rule.

The certificate ~~shall be~~ is considered a part of each order for the tangible personal property unless the purchaser advises the seller to the contrary at the time the order is placed, and ~~such certificate shall remain~~ remains in effect until revoked by the purchaser in writing.

AUTHORITY: 36 M.R.S.A., ~~Section 112.1~~ MRSA §112

EFFECTIVE DATE: June 1, 1951

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